

General Information Letter: Organizations exempt from federal income taxation under IRC Section 501(a) are subject to Illinois income tax only on their unrelated business taxable income.

April 16, 2001

Dear:

Your letter of February 25, 2001 addressed to the Office of the Attorney General has been forwarded to our department for a response. In your letter, you stated the following:

We are an independent, citizen support group with a non-profit status – IRS 501(c)(3), supporting the xx.

We have a small environmental education sales area at the xxxxxxxxxxxxxxxxx, IL office. Our sales for the fiscal year were \$2,077.57 with taxes paid to the State of Illinois of \$124.24. These sales were 'related business income' in that our organization is founded and our non-profit status is based primarily on an environmental education status. Our sales include books about the environment and other educational items.

We received Illinois Department of Revenue form 2000 Form IL-990-T recently. Our income is directly related to our non-profit status. Our income is not 'unrelated business income'. Therefore, we believe that we should not have to file this document.

Please consider this request.

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill.Adm.Code §1200, or on the website <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

In general, Illinois follows the federal government in questions concerning a charitable group's status as an exempt organization. Section 205 of the Illinois Income Tax Act ("IITA"), 35 ILCS 5/101 et seq, explains exempt organizations:

- (a) Charitable, etc. organizations. The base income of an organization which is exempt from the federal income tax by reason of Section 501(a) of the Internal Revenue Code shall not be determined under Section 203 of this Act, but shall be its unrelated business taxable income as determined under Section 512 of the Internal Revenue Code, without any deduction for the tax imposed by this Act. The standard exemption provided by Section 204 of this Act shall not be allowed in determining the net income of an organization to which this subsection applies.

Since your letter indicates that your organization is exempt federally by reason of Internal Revenue Code Section 501(a), your organization is also exempt under Illinois law. Although you will be exempt from determining base income under Section 203 of the IITA for all non-for-profit activities,

your organization will be subject to Illinois income tax on any unrelated business income. Such unrelated business income must be reported by your organization on Form IL-990-T.

Your letter states that your organization previously paid taxes in the amount of \$124.24 to Illinois and it may be for that reason that you are receiving Form IL-990-T each year. Organizations such as yours may have unrelated business income some years, but not others. The years that your organization does have unrelated business income, it will need to file Form IL-990-T.

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. Should you have additional questions, please do not hesitate to contact our office.

Sincerely,

Heidi Scott
Staff Attorney -- Income Tax